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might well, without ratification, by the very fact of payment, be subrogated to the brokers' rights. *Conn. Fire Ins. Co. v. Erie Ry. Co.* (1870) 73 N. Y. 399. To be thus subrogated it is not necessary that the indemnifier be under a legal obligation to make the payment. *St. Louis A. and T. Ry. Co. v. Fire Assn. of Phila.* (1895) 60 Ark. 325. All such considerations the court meets by a disconcerting alternate ground for the decision: even if the acts of the brokers be considered the acts of their customers, the former may yet be treated so far as necessary as trustees of the customers, and recover as such.

K. N. L.

USURY—LOAN OR SALE—DISTINCTION ON GROUND OF GOOD FAITH.—*PEOPLE v. SILVERBERG* (1916) 160 N. Y. S. 727.—The complainant applied to the defendant for a loan of \$100. The defendant agreed to sell the complainant a diamond ring which he could pawn and for which the complainant agreed to pay \$295, in monthly installments. The complainant then pawned the ring for \$125, the retail value of the same being \$180. Held, that the real nature of this transaction was a loan and not a sale and it was within Banking Law (Consol. Laws, c. 2) § 314 forbidding usury. Moss, J., *dissenting*.

The intent of the parties is the essential element. 39 Cyc. 929. If an illegal interest was intended, whatever the color or disguise of the transaction, it was a loan. *Miller v. Bates* (1860) 35 Ala. 580. But a purchase of personal property of another with an agreement to resell it to such other in the future has been held a valid sale. *Rogers v. Blouenstein* (1915) 124 Ga. 501. Credit sales at exorbitant prices for immediate resale by the vendee where the vendee is in great need of money are generally regarded in the nature of loans and not *bona fide* sales. *Collier v. Barr*, (1879) 64 Ala. 543; *Swanson v. White* (1844) 5 Humph. (Tenn.) 373; *Quackenbos v. Sayer* (1875) 62 N. Y. 344. The form of the transaction in the principal case is similar to that in *Rogers v. Blouenstein*, *supra*, and differs only in the finding of bad faith.

S. J. T.